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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,643	10/27/2003	Raksh Vir Jasra	4062-95	8904
23117	7590	12/21/2005	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			JOHNSON, CHRISTINA ANN	
			ART UNIT	PAPER NUMBER
			1725	
DATE MAILED: 12/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,643

Applicant(s)

JASRA ET AL.

Examiner

Christina Johnson

Art Unit

1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/24/05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 recites the limitation "wherein the process does not involve the use of clays and organic binders." Claim 8 recites "wherein the adsorbent does not contain any lithium, potassium or calcium ions." There is insufficient support for both of these limitations in the specification as originally filed. Applicant has pointed to portions of the specification which do not mention clays, organic binders, or additional cations. However, the mere absence of a positive recitation is not basis for an exclusion. There is nothing in the specification which would suggest that applicant had in their possession at the time of filing the invention that the process does not involve the use of clays and organic binders or that the adsorbent does not contain any lithium, potassium, or calcium ions.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Choudary et al.

Choudary et al. (US 6,087,289) discloses an oxygen selective adsorbent composition and a process of preparing such a composition. Suitable zeolites include Zeolite X and an example uses Na-X zeolite as the starting material (column 4, lines 10-20). It is taught that the exchange is carried out with a 1-10 wt% cerium salt solution at a temperature of 30-100 degrees C for 4-48 hours (column 4, lines 50-60). In an example, cerium chloride is used as the cerium salt and the exchanged zeolite is filtered, and washed with hot distilled water (Example 5). Note that the reference refers to NaX powder prepared earlier, i.e. in example 1, and does not contain a clay or organic binder (Example 5). The reference details that the composition is first dried in air at a temperature of 28-32 degrees C for 6-18 hours, followed by calcination at 450-700 degrees C for 2-18 hours (column 5, lines 1-15). The use of lithium, potassium, or calcium is not required by the reference. Refer to Example 5 and column 4, lines 5-10.

As each and every element of the claimed invention is taught in the prior art as recited above, the claims are anticipated by Choudary et al.

Response to Arguments

5. Applicant's arguments filed October 11, 2005 have been fully considered but they are not persuasive.

Applicant argues that the instant claims are distinguished from the prior art reference by requiring that the claims do not involve the use of clays or organic binder or additional alkaline earth metal cations. This argument has been considered but is not persuasive. First, as discussed above, it is the position of the examiner that such limitations are not supported by the original disclosure. Second, this argument is not commensurate in scope with the teachings of the reference. The reference specifically teaches the preparation of a cerium exchanged, NaX zeolite in powder form. See example 5, in particular, and contrast with Example 8. Therefore, the reference meets the claimed limitations. Applicant further alleges unexpected results. However, the instant claims are rejected under 102. Therefore, unexpected results are not relevant to the rejection at issue.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

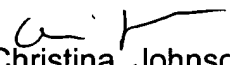
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Johnson whose telephone number is (571) 272-1176. The examiner can normally be reached on Monday-Friday, 7:30-5, with Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Christina Johnson
Primary Examiner
Art Unit 1725

14/15/05

CAJ

December 15, 2005